IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1091 OF 2007
IN
SUMMARY SUIT NO.3656 OF 2004

RMC Readymix (India) Pvt.Ltd. ..Plaintiffs.

V/s.

Kanayo Khubchand Motwani. ..Defendant.

Mr.Shekhar S. Shetye with Ms.Nina Kapadia i/b. Pandya Girdharlal & Co. for plaintiffs.

Mr.Mustafa Doctor i/b. Fedral & Rashmikant for defenant.

CORAM: A.M.KHANWILKAR,J

DATE : MARCH 30, 2007.

P.C. :

1. The preliminary objection is raised on behalf of the defendant about maintainability of the Motion placing reliance on the decision of Full Bench of this Court reported in **Vol.XVII Bombay Law Reporter 655 in the case of Narayan Vithal Samant V/s. Jankibai Sitaram Samant** as well as an unreported order of this Court **dated 14th October, 2005 in Notice of Motion No. 2196 of 2003**.

2. Counsel for the plaintiffs fairly submits that in that case plaintiffs be permitted to withdraw this Motion with liberty to take out appropriate

proceeding, as may be permissible in law.

3. Hence, Notice of Motion dismissed as withdrawn, with liberty as prayed.